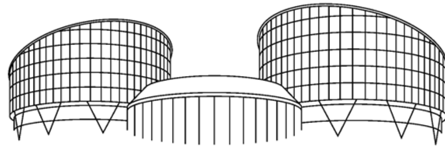

FOURTH SECTION

CASE OF HOVHANNISYAN AND NAZARYAN v. ARMENIA

(Applications nos. 2169/12 and 29887/14)

JUDGMENT

Art 2 (substantive) • Life • Positive obligations • Failure to take appropriate and effective measures to protect life of contractual military officer who allegedly committed suicide, against backdrop of harassment and ill-treatment • Lack of regulatory framework to safeguard life of military personnel, specifically in relation to prevention of suicide
Art 2 (procedural) • Domestic authorities' failure to conduct an effective investigation into circumstances of death and to secure applicants' involvement to a sufficient degree

STRASBOURG

8 November 2022

FINAL

08/02/2023

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Hovhannisyan and Nazaryan v. Armenia,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Gabriele Kucsko-Stadlmayer, *President*,
Tim Eicke,
Yonko Grozev,
Armen Harutyunyan,
Pere Pastor Vilanova,
Jolien Schukking,
Ana Maria Guerra Martins, *judges*,
and Ilse Freiwirth, *Deputy Section Registrar,*

Having regard to:

the applications (nos. 2169/12 and 29887/14) against the Republic of Armenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Armenian nationals, Ms Hasmik Hovhannisyan ("the first applicant") and Ms Tsovinar Nazaryan ("the second applicant") (together "the applicants"), on 23 November 2011 and 3 April 2014 respectively;

the decision to give notice to the Armenian Government ("the Government") of the applications;

the parties' observations;

Having deliberated in private on 11 October 2022,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the death of A. Nazaryan, the first applicant's son and the second applicant's brother during his military service, allegedly by suicide, and the subsequent investigation. It raises issues under Article 2 of the Convention.

THE FACTS

2. The first and second applicants were born in 1949 and 1976 and live in Yerevan and Brussels respectively. They were represented before the Court by Mr V. Grigoryan and subsequently by Mr M. Shushanyan, a lawyer practising in Yerevan, and Ms J. Evans, Ms J. Gavron, Mr P. Leach, Ms K. Levine and Ms J. Sawyer, lawyers from the European Human Rights Advocacy Centre in London.

3. The Government were represented by their Agent, Mr G. Kostanyan, and subsequently by Mr Y. Kirakosyan, Representative of the Republic of Armenia on International Legal Matters.

4. The facts of the case may be summarised as follows.

I. BACKGROUND TO THE CASE

5. The applicants are the mother and the sister of Mr A. Nazaryan, an officer of the armed forces of Armenia who died at the age of 31.

6. From 2001 to 2003 A. Nazaryan performed mandatory military service.

7. In 2009 he was recruited to the armed forces of Armenia and assigned to military unit no. 21127 (“the military unit”) situated in Armenia with the rank of lieutenant.

II. DEATH OF THE APPLICANTS’ RELATIVE AND THE ENSUING INVESTIGATION

8. On 27 July 2010 A. Nazaryan was found dead at base no. 12 of the military unit, where he was on duty on that day, with a gunshot injury to his mouth.

9. After A. Nazaryan’s death, Captain H.M., who was in charge of base no. 12, removed A. Nazaryan’s notebook from his pocket (see paragraph 34 below) and handed it over to Major M.N., the company’s chief of staff.

10. On the same day at 9.15 a.m. the Ministry of Defence received an urgent report from the military unit which stated that, according to initial information, Lieutenant A. Nazaryan had fatally shot himself in the trench with the assault rifle assigned to him.

11. On the same day the Sixth Garrison Investigative Service of the Ministry of Defence of Armenia instituted criminal proceedings under Article 110 § 1 of the Criminal Code (incitement to suicide). The relevant part of the decision reads as follows:

> “On 27 July 2010 ... there was a report from [the military unit] that at around 7.50 a.m. on the same day at military base no. 12 ... [A.] Nazaryan, who had been assigned to duty there, shot himself in the mouth with the assault rifle assigned to him and died instantly.”

12. On the same day the investigator ordered an autopsy to determine, *inter alia*, the cause of A. Nazaryan’s death, the presence of any injuries on his body and, if there were any injuries, the time of their infliction.

13. On the same day the investigator seized three magazines belonging to A. Nazaryan which contained ninety bullets. The investigator also conducted an examination of the firearms assigned to all the servicemen of base no. 12 and of the military unit and a report was drawn up stating that none of those firearms had been fired since they had last been cleaned.

14. The first applicant was recognised as the deceased’s legal heir in the proceedings. She was subsequently succeeded in the proceedings by the second applicant.

15. According to the record of the examination of the scene of the incident dated 28 July 2010, A. Nazaryan’s body was discovered in a seated position next to a rock within the territory of military base no. 12 with the barrel of

the assault rifle in his mouth and the stock between his legs. The assault rifle was seized by the investigator, who removed a thirty-round magazine and unloaded it, as a result of which one bullet covered with a red, blood-like substance came out of the bolt. The investigator then fired a test shot and closed the trigger guard. The magazine which had been removed contained twenty-nine bullets, which were also seized. One fired cartridge was also discovered on the ground close to the body. This cartridge, which bore the numbers 78-09, was also seized. In addition, traces of a red blood-like substance were present on A. Nazaryan's outer clothing (on the right arm) and on the ground in the same direction (a trace of 60 cm in length). Samples were taken from the traces on the ground. At the end of the examination the body was removed from the scene.

16. The Government submitted that the examination of the scene had been conducted on 27 July 2010 but that the investigator had mistakenly indicated in the record that it had been conducted on 28 July 2010.

17. On 28 July 2010 the investigator ordered a combined ballistic, trace and fingerprint examination to determine, *inter alia*, whether cartridge no. 78-09 discovered at the scene had been fired from A. Nazaryan's assault rifle, whether the magazine removed from the assault rifle could have contained thirty-one bullets and whether any identifiable fingerprints were present on different parts of the assault rifle and the fired cartridge submitted to the experts.

18. According to the record of a further examination of the scene of the incident, also dated 28 July 2010, traces of a dried red blood-like substance (17 cm in length) were discovered on the wall of the canteen of the military unit from which samples were taken.

19. By an order of 28 July 2010, S.G., the commander of the military unit, issued orders to put all the servicemen of military base no. 12 in disciplinary isolation for breaching military rules. Those to be isolated had already been confined since 27 July 2010 and included Captain H.M., who had been in charge of base no. 12 since 16 July 2010, and Privates H.K., M.M., A.H. and A.Mk.

20. It appears that by S.G.'s order of the same date, Lieutenant V.H., a senior officer at another base, was isolated for three days as punishment for poor supervision of personnel.

21. In the course of their isolation, the servicemen were questioned and confrontations were held among them.

22. In his statement of 27 July 2010, Captain H.M. stated, among other things, that A. Nazaryan had not been properly fulfilling his duties and that he had often had to draw his attention to his omissions. Since A. Nazaryan was a weak officer, he had been attentive towards him, as he suspected that the other servicemen might put pressure on A. Nazaryan. According to him, no servicemen had mistreated A. Nazaryan in his presence. He then recounted an episode from 19 July 2010 when he had had an argument with A. Nazaryan

because the latter had used his water bottle as a container for diesel fuel. According to him, A. Nazaryan insulted him during their conversation, in response to which he hit A. Nazaryan once and then again later that day during another argument in the presence of Senior Sergeant Ar.H., Private A.M. and V.H., whom he had asked to come over. Captain H.M. also stated that, while being angry, he had punched A. Nazaryan twice, upon which the latter had turned backwards and hit his face on a wooden board, as a result of which his nose had bled. On their way back to the trench, having noticed that A. Nazaryan was upset about the incident, V.H. discreetly told Captain H.M. to pay attention to A. Nazaryan so that he would not harm himself. Captain H.M. himself did not rule out the possibility that A. Nazaryan might harm himself, as he seemed very upset. After V.H. had left, Captain H.M. spoke with A. Nazaryan until the change of the night shift, trying to console him and to prevent him harming himself. In the following days Captain H.M. reprimanded A. Nazaryan several times for treating the servicemen under his command in a very familiar and informal manner. He denied having insulted A. Nazaryan at that time.

Captain H.M. then admitted to having been angry with A. Nazaryan on the afternoon of 26 July 2010 because he had witnessed A. Nazaryan continuing to address the servicemen under his command in a very familiar and informal manner despite his previous warnings in that regard. Captain H.M. then told A. Nazaryan that after the duty shift was over he would ask the deputy commander of the military unit to organise a "court of honour" in respect of A. Nazaryan, adding that the latter did not merit being an officer. Thereafter Captain H.M. saw that A. Nazaryan was feeling upset and thought that it was because of their earlier conversation. When Captain H.M. woke up on 27 July 2010, he saw A. Nazaryan leaving the trench with his assault rifle on his shoulder. He then heard a sound similar to that of a rifle being loaded but thought that A. Nazaryan had probably forgotten to unload his gun after the last shift change. He then started asking other servicemen whether they had seen A. Nazaryan. At around 7.50 a.m. a shot was heard. Captain H.M. then asked two privates to urgently check what had happened. He then went to the toilet and on his way back to the trench, one of the privates called from a distance asking for a stretcher, as A. Nazaryan had shot himself.

23. According to the statements of Privates A.Mk. and A.M., Senior Sergeant Ar.H. and Junior Sergeant G.S. given between 27 and 28 July 2010, A. Nazaryan had fallen victim to humiliation and ill-treatment by Captain H.M. and the conscripts A.H., M.M. and H.K. on several occasions.

24. On 29 July 2010 the investigator ordered a forensic biological examination to determine, *inter alia*, whether the traces of blood-like substance discovered near A. Nazaryan's body and in the canteen (see paragraphs 15 and 18 above) contained blood and, if so, whether they could have come from A. Nazaryan. The outcome of this forensic examination is unknown.

25. It appears that on the basis of Commander S.G.'s orders Captain H.M. and Lieutenant V.H. were once again isolated for a period of three days starting on 31 July 2010 for breaching military service rules.

At an interview conducted on the same day, Lieutenant V.H. stated that he had witnessed Captain H.M. verbally and physically abusing A. Nazaryan, while he himself had tried to reconcile them.

26. Following a request from the Court to provide documentary evidence in relation to the disciplinary isolation of the servicemen of the military unit in July and August 2010, the Government provided copies of S.G.'s orders from 27 and 28 July 2010.

In accordance with the order of 27 July 2010, the entire personnel of military base no. 12, that is, eleven servicemen, were to be returned from the base "because of the incident at military base [no. 12] on the basis of the results of [S.G.'s] internal investigation prior to the [criminal investigation] as well as the psychological condition of the staff ...".

In accordance with S.G.'s order of 28 July 2010, the eleven servicemen in question were put in disciplinary isolation for a "breach of internal service rules discovered as a result of the internal investigation carried out prior to the [criminal investigation] into the incident". They included, among others, Captain H.M. and Senior Sergeant Ar.H., who were isolated for three and five days respectively, and Privates H.K., M.M., A.M., A.H. and A.Mk., who were put in isolation for ten days.

The Government did not provide any documents in relation to the other episodes of disciplinary isolation of the servicemen, which they did not contest had taken place (see paragraphs 20 and 25 above and paragraph 30 below).

27. On 3 August 2010 Captain H.M. and Privates A.H., M.M. and H.K. were arrested.

28. On 5 August 2010 Captain H.M. was charged with aggravated abuse of power under Article 375 § 2 of the Criminal Code.

29. On the same day Privates A.H., M.M. and H.K. were charged with aggravated use of violence against a superior under Article 358 § 2 (3) of the Criminal Code.

30. It appears that by S.G.'s order of 7 August 2010, Privates A.Mk. and A.M. were isolated for another ten days for breaching military rules.

31. On 9 August 2010 A. Nazaryan's notebook was submitted to the investigating authority. A torn piece of paper was found inside the notebook, on which was written the following:

> "I am obliged to do this – tired of everything, my parents' upbringing, not finding my place in life, not being able to dream. This is no one's fault, no one's, only mine and my parents'."

32. The notebook was then submitted for forensic document examination. According to the ensuing expert report dated 13 August 2010, the entries in

it and the statement on the separate piece of paper had been written by A. Nazaryan.

33. On 10 August 2010 the Minister of Defence issued an order whereby several officials of the military unit were reprimanded in relation to the incident. The relevant parts of the order read as follows:

> "... The internal investigation has revealed that Captain [H.M.] ... was assigned responsibility for military bases [including] no. 12 and ... [he] was mainly present in military base no. 12 ... On 18 July [2010] bread and diesel fuel were delivered to military base no. 12. Because there was no container, [A.] Nazaryan poured the diesel fuel into a water bottle ... knowing, however, that [the bottle] belonged to [H.M.]. The latter, having found out about this, summoned [A.] Nazaryan for an explanation. Their conversation evolved into mutual insults, after which [H.M.] gave [A.] Nazaryan until 10 p.m. the next day [19 July 2010] to restore the bottle, while threatening to ... demean him... The next day ... [A.] Nazaryan went to the nearest village ... to obtain a new bottle. ... When asked by [H.M.], who was angry, to explain his absence from the military base, [A.] Nazaryan expressed his discontent ... The conversation evolved into an argument, mutual insults, a scuffle and a fight ... Thereafter, those involved in the argument invited [V.H.] to military base no. 12 to be present during the conversation ... The conversation once again evolved into insults and a fight, as a result of which [A.] Nazaryan's nose bled.
>
> Captain [H.M.], being in charge of ... military base no. 12 ... and [A.] Nazaryan's direct commander, abused his official position by assaulting [A.] Nazaryan in front of the staff, thereby affronting his dignity and creating an unhealthy moral environment in the military base, which resulted in [A.] Nazaryan having been ill-treated by conscripts [H.K.], [M.M.] and [A.H.]. This situation was concealed from the command, as a result of which, having isolated himself, [A.] Nazaryan's external conflicts were transformed into internal ones, creating an unbearable psychological condition leading to a fatal outcome ...
>
> The incident would not have taken place if:
>
> (1) when selecting staff to be included in military duty, the personal characteristics of the service personnel, their social and psychological compatibility and interpersonal relations had been taken into account;
>
> (2) the work with the personnel, ... especially that which was aimed at preventing non-statutory relations ..., had been conducted properly;
>
> (3) the ... staff had been guided by the proposals in [a special address by the Minister of Defence] and had drawn conclusions therefrom;
>
> (4) the deputy commander of [the military unit] responsible for working with the personnel had examined in detail the professional and moral characteristics of the officers;
>
> (5) ... the summaries of the monthly results and the assessments after military duty shifts had not been carried out in a superficial manner (according to the statements of the commander of the military unit, Lieutenant [A.] Nazaryan had been described negatively; however, he had never been mentioned in summary reports as having performed poorly);
>
> ...
>
> In order to penalise those responsible for what has happened and to prevent similar incidents in the future, I order:

1. the imposition of [the following penalties]:

...

(2) a strict reprimand in respect of:

- the deputy commander of [the military unit] ...

(3) a warning about partial compatibility with the requirements of the post in respect of:

(a) the deputy commander of [the military unit] responsible for military duty ...

(b) ... Captain [G.U.] ... for not having supervised the personnel or established order and a stable moral environment for the personnel ...

2. the dismissal from post and reassignment to a lower post of:

(a) the deputy commander of [the military unit] responsible for working with the personnel ... for failure to ... prevent negative incidents in interpersonal relations;

...

... until the termination of the examination of the criminal case, ... Captain [H.M.] and Lieutenant [V.H.] are to be placed at the disposal of ... the staff of the [armed forces].

...

6. commanders of [military units] to:

– discuss the incident ... and take measures to prevent the recurrence of such [incidents] ...

...”

34. During an additional interview on 11 August 2010, Captain H.M. stated that after the incident he had approached the body and taken a notebook from A. Nazaryan’s pocket. He had then given the notebook to Major M.N., asking the latter to keep it and not to tell anyone about it. When asked for the reason for giving the notebook to M.N., he said that he was afraid that his fingerprints might have remained on it. He admitted that he and M.N. had read the entries in the notebook but said that he did not remember what they were about.

35. On 17 August 2010 the conclusions of the combined ballistic, trace and fingerprint examination (see paragraph 17 above) were delivered. The relevant parts of the experts’ report read as follows:

“... the submitted cartridge was given to the expert in order to be examined. As a result of the examination of the cartridge it was found that ... the numbers 60-78 were stamped on the bottom of the cartridge, [the first two digits] of which correspond to the number of the factory which produced it and the last two digits to the production year.

... the submitted cartridge ... had been fired from the assault rifle ... submitted for examination.

The submitted magazine can possibly be loaded with thirty-one bullets of relevant calibre.

...

No traces of papillary ridges have been discovered on the submitted bullet and cartridge. Some parts of the surface of the submitted assault rifle contain fragments of sweat and grease deposits, which are not suitable for subsequent comparative examination."

36. A number of forensic ballistic examinations were ordered with a view to finding out whether the hand, mouth and ear swab samples taken from A. Nazaryan's fellow servicemen contained any gunshot residue deposits. According to their conclusions, swabs taken from seven of his fellow servicemen, G.S., A.M., H.N., A.Mk., A.H., M.M. and H.K., contained copper particulates which are part of gunshot residue.

37. On 22 September 2010 the forensic medical examination of A. Nazaryan's body, including an autopsy, was completed. The relevant parts of the forensic medical expert's conclusion read as follows:

"... [A.] Nazaryan's death was caused by functional brain failure as a result of a perforating ballistic trauma to the head ... The shot was fired in the mouth ... Apart from the above observations, the examination of [A.] Nazaryan's body has also revealed abrasions in the area of the right cheek, lower jaw and mastoid process and bruising in the area of the right upper arm, which were inflicted ... about six hours before the death and are not directly linked to the death ... Also, abrasions in the area of the left half of the chest, left upper arm, left elbow, left forearm and left hip, which were inflicted ... with blunt objects ... not long before the death, have been discovered; [as well as] an abrasion in the area of the fifth digit of the right wrist inflicted three to five days before the death, but not directly linked to the death ...

The forensic chemical examination ... has shown 1.8 per mille alcohol in the blood sample and 0.7 per mille in the urine sample, which correspond to average-level alcohol intoxication ... the deceased ingested [the alcohol] about one to one and a half hours before his death. [A.] Nazaryan's stomach was empty ...

Nineteen photographs ... are attached to this conclusion."

38. On 13 October 2010 R.E., a senior sergeant in the military unit, was questioned and stated, *inter alia*, that he knew A. Nazaryan to have been an intelligent and humble officer who, however, was unable to supervise his personnel. He also stated that Captain H.M. had verbally and physically abused A. Nazaryan in front of the rest of the servicemen, as a result of which some of them, notably M.M., H.K. and A.H., had treated A. Nazaryan in the same way, that is, they had mocked him and had been disrespectful.

39. At an interview on 27 October 2010, Senior Sergeant Ar.H. was asked whether he had reported to his superiors the situation in which A. Nazaryan had found himself, referring to the incidents of his humiliation and ill-treatment by the other servicemen. Ar.H. replied in the negative, stating that he was not aware that he was supposed to report this.

40. On 28 October 2010 the first applicant requested from the investigator photocopies of the documents that contained A. Nazaryan's handwriting samples, including those in the notebook, with the purpose of submitting them to forensic handwriting experts abroad, since she aimed to dispute that the entries in the notebook had been made by her son.

41. On 4 November 2010 the investigator, referring to, *inter alia*, Articles 59 and 201 of the Code of Criminal Procedure ("the CCP"), refused the first applicant's request on the ground that the data collected during the investigation was not subject to disclosure before the completion of the investigation. The first applicant unsuccessfully disputed that decision in court, arguing that the relevant provisions of the CCP restricted the rights of the victim party in criminal proceedings to such an extent that the victim party was deprived of the possibility of submitting his or her position in an efficient manner.

42. On 20 November 2010 the investigator ordered a combined forensic medical, ballistic and trace examination to determine, *inter alia*, whether A. Nazaryan could have inflicted the gunshot injury on himself and, if so, in view of the position of the body upon its discovery, the detected injuries and the direction of the gunshot wound, to determine the positions of the weapon and the body at the time the shot had been fired. The experts were further requested to determine whether other persons could have inflicted the gunshot injury on A. Nazaryan and what the wound trajectory would have been in such a case and whether it was possible that A. Nazaryan's death had occurred in another place and that his body had then been transferred to the place where it was later discovered, and whether there were signs of such a transfer on his clothing.

43. On 2 February 2011 the report on the combined forensic medical, ballistic and trace examination was delivered. Its relevant parts read as follows:

> "... the expert commission concludes that the injuries described on [A.] Nazaryan's head and [the bullet exit hole] on his hat originated from gunfire ... as a result of one shot into the mouth cavity. The location and the infliction mechanism of the bullet exit hole on [A.] Nazaryan's hat ... correspond to the bullet exit injury on [A.] Nazaryan's head ...
>
> Considering the position of the body upon its discovery, the detected corporal injuries and the direction of the gunshot wound, it should be concluded that [A.] Nazaryan could have inflicted the wound in question on himself, whereas the position of the victim and of the weapon at the moment of the shot could have been such that the above-mentioned conditions of the infliction of the gunshot injury could have been ensured.
>
> ... it is not ruled out that [A.] Nazaryan's corporal injury could have been inflicted by himself as well as by another person ...
>
> The forensic examinations of [A.] Nazaryan's body and clothing have not shown traces of being transferred (by dragging)...
>
> In view of the position of [A.] Nazaryan's body when it was discovered, it should be concluded that the self-infliction of a gunshot injury of that kind was possible. His ballistic injuries, the gunfire exit hole in the hat [and] the direction of the barrel of the assault rifle ... all correspond to each other.
>
> The locations of the damaged parts of [A.] Nazaryan's [clothing] do not correspond to the injuries (bruising and abrasions) discovered on his body during the autopsy ..."

44. On 14 February 2011 Junior Sergeant G.S. was further questioned. He submitted, in particular, that at around 5 or 6 p.m. on 26 July 2010 he had been in the canteen with other servicemen, including A.Mk., having coffee. A. Nazaryan was also sitting in the canteen, looking upset. When A. Nazaryan had left, Captain H.M. ordered that the firing pin be taken out of A. Nazaryan's assault rifle so that he would not harm himself. Captain H.M.'s order was not directed at G.S. personally, but in general to those present, although G.S. did not remember exactly who else was there except A.Mk.

45. At an additional interview on 22 February 2011, A.M. stated, *inter alia*, that on 19 July 2010 he had seen Lieutenant V.H. together with Captain H.M. hitting A. Nazaryan. Other witnesses, including Junior Sergeant G.S., also confirmed having seen V.H. hitting A. Nazaryan.

46. On 1 April 2011 Lieutenant V.H. was charged with aggravated abuse of power under Article 38-375 § 2 of the Criminal Code (see paragraphs 76 and 83 below) for having ill-treated and humiliated A. Nazaryan in complicity with Captain H.M.

47. On 9 April 2011 the investigator ordered a posthumous forensic psychological and psychiatric examination to determine, *inter alia*, whether A. Nazaryan had suffered from any psychiatric disorders and what his psychological condition had been during the period preceding his death.

48. On 1 June 2011 the commission of experts which had conducted the posthumous forensic psychological and psychiatric examination delivered its report, which stated, *inter alia*, that A. Nazaryan had never suffered from a psychiatric disorder and had been fully accountable for his actions. On the basis of the material provided by the investigating authority (statements by A. Nazaryan's superiors and fellow servicemen and a statement of the facts as set out in the decision to order the forensic examination), the commission found that A. Nazaryan, despite his being a highly intellectual person who, moreover, held the rank of lieutenant, had fallen victim to continual humiliation by fellow servicemen, including higher-ranking officers and conscripts. The material of the criminal case reflected an entire chain of humiliation and violence which had originated from the commander of the first battalion of the military unit, Captain H.M. The commission concluded that A. Nazaryan's suicide was linked to his humiliation, debasement and ill-treatment by officers H.M. and V.H. and conscripts A.H. and M.M., and that the actions of conscript H.K. had probably also played a role.

49. On 14 June 2011 the charges against H.K. were modified and he was charged under Article 358 § 1 of the Criminal Code with having verbally and physically abused A. Nazaryan, his superior officer.

50. On 15 June 2011 the charges against Captain H.M. were modified and he was charged under Article 360 § 2, Article 365 § 1 and Article 375 §§ 1 and 2 of the Criminal Code with having humiliated and ill-treated A. Nazaryan, his subordinate, on various occasions in the period between 15

and 26 July 2010, such actions having led to A. Nazaryan’s eventual suicide on 27 July 2010.

51. On 25 June 2011 the applicants were provided with the material in the case file.

52. On 2 August 2011 a bill of indictment was finalised. The relevant parts of the bill of indictment state the following:

> “Almost all [A.] Nazaryan’s fellow servicemen described him as a modest, intellectual, positive individual, who, however, was not suited for military service ... [he] was unable to control the actions of the platoon staff under his command, as a result of which he was constantly being reprimanded by the administration.
>
> As a result of the above circumstances, the attitude of the platoon officers towards [A.] Nazaryan gradually changed in a negative way: he was not being taken seriously, was being insulted, and so on.
>
> On 16 July 2010 the first battalion of the military unit was put on active duty.
>
> Lieutenant [A.] Nazaryan was assigned to military base no. 12 as its senior [officer] ... Captain H.M. was put in charge of ... [military base no. 12] ...
>
> On 16 July 2010 ... [A.] Nazaryan called ... company Commander Captain G.U., informing him that he could not be present on that day because his father was ill ...
>
> ... in that connection, an argument ensued between G.U. and H.M. during which the latter swore at [A.] Nazaryan and told G.U. that he would punish [A.] Nazaryan.
>
> ...
>
> When ... [A.] Nazaryan returned to the military base on 17 July 2010, Captain H.M. swore at him ...
>
> ... on 19 July 2010 H.M. beat [A.] Nazaryan ... [A. Nazaryan] tried to hit him back but could not. ... thereafter H.M. sent for ... Senior Lieutenant V.H., who was H.M.’s friend.
>
> ... H.M. and V.H. together started beating [A.] Nazaryan, in particular punching and kicking him in the head, stomach, chest, and so on.
>
> As a result of the blows, [A.] Nazaryan’s nose bled [and] his face was swollen ...
>
> In general, H.M. continually treated [A.] Nazaryan in a disrespectful manner. He did not even let [A.] Nazaryan eat at the same table with him, claiming that he ‘felt disgusted by [him]’.
>
> ... such behaviour from H.M. was not without consequences.
>
> Taking advantage of the situation ... three conscripts, A.H., M.M. and H.K., who were put on active duty in the military base, bullied [A.] Nazaryan.
>
> ...
>
> Being conscripts in the first company under [A.] Nazaryan’s command, [A.H., M.M. and H.K.] mocked him, debased him and used violence against him, taking advantage of his extremely vulnerable psychological condition ... brought about by the actions of H.M. and V.H.
>
> ...

> It became evident to the military base staff, including H.M., that [A.] Nazaryan was at risk of harming himself, in relation to which on 26 July 2010 H.M. ordered the officers to discreetly take the firing pin out of [A.] Nazaryan's assault rifle, which, however, was not done.
>
> [On 27 July 2010] at around 7.30 a.m. [A.] Nazaryan ... took the assault rifle ... assigned to him with only one magazine and said ... that he was going to check the watch stations ...
>
> At around 7.50 a.m. [A.] Nazaryan ... fired one shot into his mouth from the assault rifle assigned to him ..."

III. PROCEEDINGS BEFORE THE CONSTITUTIONAL COURT

53. In the meantime, the first applicant applied to the Constitutional Court, challenging the constitutionality of Article 59 § 1 (9) and Article 201 § 1 of the CCP.

54. On 24 January 2012 the Constitutional Court found Article 59 § 1 (9) and Article 201 § 1 of the CCP to be compatible with the Armenian Constitution (see paragraph 88 below).

IV. TRIAL

55. The criminal case was taken up by the Tavush Regional Court ("the Regional Court").

56. During the trial the second applicant lodged an application with the Regional Court seeking to have thirty-two pre-trial statements by A. Nazaryan's fellow servicemen ruled inadmissible on the grounds that they had been taken during the period when fourteen of them, including the defendants, had been subjected to unlawful confinement in July and August 2010 on the basis of the orders of the military unit commander in the aftermath of A. Nazaryan's death.

57. In the course of the trial, Captain H.M. testified, *inter alia*, that during his confinement together with other servicemen, the investigator had compelled him to make a statement that he had killed A. Nazaryan or had incited him to commit suicide.

58. Senior Lieutenant V.H. testified, in particular, that he had never heard that A. Nazaryan had had any problems with fellow servicemen or conscripts under his command. Furthermore, he had never witnessed anyone disobeying A. Nazaryan's orders.

59. A.H. retracted his pre-trial statements, stating that he had made them under duress.

60. M.M. refused to testify before the Regional Court and confirmed his pre-trial statements, according to which he had never used any violence against A. Nazaryan or humiliated him in any way.

61. H.K. testified that he had never had any problems with A. Nazaryan and that they had had a good relationship. According to him, A. Nazaryan

had organised the military service properly but had had slight issues with drafting documents, the reason for which was fatigue. He further testified that after the incident he and another conscript who had been on duty at the base had been taken to the Military Police Department and kept there for several days, at first in different cells and then together. He further submitted that he had been interrogated for nine hours without interruption and that he had been on his feet throughout that time. Furthermore, he had been beaten and compelled to confess that he had killed A. Nazaryan or incited him to commit suicide.

62. A number of A. Nazaryan's fellow servicemen were questioned as witnesses during the trial.

63. Contrary to his pre-trial statement (see paragraph 38 above), Senior Sergeant R.E. testified that he had never noticed that Lieutenant A. Nazaryan had any issues with Captain H.M. or any other officer. He further submitted that he had told the investigator that he had never witnessed any violence or humiliation in respect of A. Nazaryan and that the investigator had changed his statements in the record, which he had signed without having read it, since he had trusted the investigator to record his statements accurately.

64. A.Mk. submitted that he had witnessed Captain H.M and Senior Lieutenant V.H. beating A. Nazaryan. He had also witnessed other servicemen beating A. Nazaryan, namely A.H. and M.M., while H.K. had also physically abused him. On the day of the incident all the servicemen, including himself, had been taken to the Berd Military Police Department. He had stayed there for about twenty-five days. About ten days into his confinement, his brother, also a serviceman, had been taken there as well. According to the investigator, this had been done in order to protect his brother, who could have been harmed because of A.Mk.'s statements during the investigation. A.Mk. also submitted that at some point he had retracted his pre-trial statements so that the accused's parents would stop bothering him and his family. However, both his pre-trial and trial statements were true.

65. The commander of the military unit, S.G., testified, *inter alia*, that the report which mentioned that A. Nazaryan's body had been discovered in the trench was a preliminary one and that too much attention should not be paid to the exact words used; he had described what he had seen personally at the scene and he had seen A. Nazaryan's body in the same position as in the photographs contained in the case file.

66. The applicants stated before the Regional Court that the investigation into A. Nazaryan's death had not been effective. They were sure that A. Nazaryan had actually been murdered. The first applicant also stated that she believed that her son had been murdered before 27 July 2010 since her other daughter had noticed worms in his nose. She also pointed to the fact that it had been initially stated that her son had died in the trench, whereas it had later turned out that he had died next to a rock. The second applicant also pointed out a number of deficiencies in the investigation on account of which

its conclusions could not be considered credible, such as the fact that the investigation had not revealed the origin of the other injuries discovered on A. Nazaryan's body; the fact that another cartridge, which had a different serial number to the one found at the scene, had been sent for forensic ballistic examination; and the fact that only sixteen photographs had been attached to the conclusion of the forensic medical expert as opposed to the nineteen indicated. During the investigation the second applicant had also requested, *inter alia*, a forensic examination of A. Nazaryan's clothing to determine whether it contained traces of another person's blood, which had not been done.

67. The forensic medical expert who had conducted the autopsy was also questioned during the trial. He submitted, in particular, that the mention of the existence of "an abrasion in the area of the fifth digit of the right wrist" had been erroneous and had occurred as a result of a mechanical error and that he had never discovered such an injury. He further stated that the time frames of the infliction of the described injuries mentioned in his conclusion were not concrete but approximate. As for the existence of the sixteen photographs attached to the conclusion instead of the nineteen indicated, he explained that this had also resulted from an error.

68. On 7 May 2013 the Regional Court convicted Captain H.M., Senior Lieutenant V.H., A.H., M.M. and H.K. as charged, sentencing Captain H.M. to ten years' imprisonment, Senior Lieutenant V.H., A.H. and M.M. to four years' imprisonment and H.K. to three years' imprisonment. The Regional Court found it substantiated that A. Nazaryan had committed suicide as a result of their actions. It dismissed all the applications lodged by the second applicant in the course of the trial, including those to have excluded from the evidence the pre-trial statements of witnesses taken during their military confinement and the record of the examination of the scene of the incident on the ground that its date did not correspond to the data contained in the case file. The Regional Court also dismissed the applications submitted by the defendants, including a request to order an additional posthumous psychological examination, on the ground that there were no proven scientific methods to determine the psychological condition of a person who had been under the influence of alcohol.

V. APPEALS

69. On 7 June 2013 the second applicant lodged an appeal against the Regional Court's judgment, which was also appealed against by Captain H.M. and Senior Lieutenant V.H. In her appeal, the second applicant complained in a detailed manner that the circumstances of A. Nazaryan's death had not been properly investigated since all the applications for measures which could have shed light on them had been dismissed by the Regional Court.

70. On 28 June 2013 the Criminal Court of Appeal ("the Court of Appeal") decided to accept the appeals for examination in accordance with the rules on the examination of cases in cassation proceedings, that is, without a full examination of the body of evidence examined by the lower court.

71. At the hearing before the Court of Appeal, Captain H.M., Senior Lieutenant V.H. and the second applicant requested that it examine all the evidence produced in the proceedings before the Regional Court to enable them to submit the applications that had previously been dismissed, since they disagreed with the way the Regional Court had assessed the evidence.

72. The Court of Appeal eventually decided to proceed with a judicial review in accordance with the rules on the examination of cases in cassation proceedings. It upheld the judgment of 7 May 2013 in its entirety in a decision of 1 August 2013, the relevant part of which reads as follows:

> "As for the arguments contained in the appeals, the Court of Appeal notes that the defence and the victim's legal successor ... have made a peculiar assessment of the evidence, their position does not correspond to the established facts [and] the [Regional Court's] findings have been properly reasoned in the judgment ..."

73. On 1 September 2013 the second applicant lodged an appeal on points of law. She reiterated her previous argument that the investigation into A. Nazaryan's death had not been effective and complained that by not having conducted a full judicial review of the Regional Court's judgment, the Court of Appeal had carried out a superficial examination of the appeals lodged, since the decision of 1 August 2013 was merely a restatement of the Regional Court's judgment of 7 May 2013, which in its turn was a restatement of the bill of indictment.

74. Captain H.M. and Senior Lieutenant V.H also lodged appeals on points of law.

75. On 27 September 2013 the Court of Cassation summarily declared all the appeals on points of law lodged against the decision of 1 August 2013 inadmissible for lack of merit. The second applicant was served with that decision on 3 October 2013.

RELEVANT LEGAL FRAMEWORK

I. RELEVANT DOMESTIC LAW

A. Criminal Code

76. Article 38 of the Criminal Code lists the types of accomplices in the commission of a crime. According to Article 38 § 2 a principal is a person who has directly committed a crime or has directly participated in the commission of a crime together with other persons (co-offenders).

77. Article 110 § 1 provides that indirectly or negligently causing a person to commit or attempt suicide by threats, cruel treatment or repeated humiliation is punishable by imprisonment for a term of up to three years.

78. Article 358 § 1 provides that inflicting physical or other violence on a superior in connection with the latter's performance of military service duties is punishable by placement in a disciplinary isolation cell for a period of up to three years or imprisonment for a period of up to five years.

79. Article 358 § 2 (3) provides that the same offence which has caused medium or grave damage to health or other severe consequences is punishable by imprisonment for a period of from three to twelve years.

80. Article 360 § 2 provides that insulting a military officer, that is, dishonouring a military officer in an indecent manner in connection with the latter's performance of military service duties, committed by a superior in respect of his subordinate, is punishable by detention for a period of up to three months or placement in an isolation cell for up to one year or a maximum of one year's imprisonment.

81. Article 365 § 1 provides that the violation of combat duty or combat service rules which are directed at the timely prevention of an unexpected attack on the Republic of Armenia or at ensuring the security of the Republic of Armenia, if that violation has negligently caused damage or a threat thereof, is punishable by placement in an isolation cell for a period of up to two years or a maximum of three years' imprisonment.

82. Article 375 § 1 provides that abuse of authority or a public position, exceeding public authority, and omissions by a superior or public official, if such acts were committed for selfish ends, personal interest or the interests of a group and resulted in grave damage, are punishable by imprisonment for a period of two to five years.

83. In accordance with Article 375 § 2, the same offence which has negligently produced serious consequences is punishable by imprisonment for a period of three to seven years.

B. Code of Criminal Procedure (as in force at the material time)

84. Article 59 § 1 (9) of the Code of Criminal Procedure provided at the material time that a victim had the right to study and photocopy all the material in the case file and to retrieve any information from the case file upon the completion of the investigation.

85. Article 201 § 1 prescribed that the data from an investigation could be made public only with the permission of the authority conducting the investigation.

C. Law on Establishing the Internal Service Regulations of the Armed Forces of the Republic of Armenia (in force from 7 January 1997) (*«ՀՀ զինված ուժերի ներքին ծառայության կանոնագիրքը հաստատելու մասին» ՀՀ օրենք*)

86. Section 6 of this Law provides that service personnel are under the protection of the State. Their life, health, honour and dignity are protected by law. Discrediting, threatening, using violence against or encroaching on the life, health and property of service personnel and other actions hindering the performance of their duties, as well as breaching their rights, give rise to liability as prescribed by law.

D. Government Decree no. 1554-N of 25 December 2008 (in force from 15 January 2009 until 27 July 2019) (*ՀՀ Կառավարության 2008թ. դեկտեմբերի 25-ի թիվ 1554-Ն որոշումը Հայաստանի Հանրապետության պաշտպանության նախարարության, Հայաստանի Հանրապետության զինված ուժերի գլխավոր շտաբի, Հայաստանի Հանրապետության պաշտպանության նախարարության նյութատեխնիկական ապահովման դեպարտամենտի և Հայաստանի Հանրապետության պաշտպանության նախարարության քննչական ծառայության կանոնադրություններն ու կառուցվածքները հաստատելու, ինչպես նաև «Հայաստանի Հանրապետության պաշտպանության նախարարության աշխատակազմ» պետական կառավարչական հիմնարկ, Հայաստանի Հանրապետության պաշտպանության նախարարության նյութատեխնիկական ապահովման դեպարտամենտ և Հայաստանի Հանրապետության պաշտպանության նախարարության քննչական ծառայություն ստեղծելու մասին*)

87. By Decree no. 1554-N of 25 December 2008 the Armenian government approved the statutes and structures of, *inter alia*, the Ministry of Defence and the Investigative Service of the Ministry of Defence.

Annex 7 to this Decree, which set out the statute of the Investigative Service, provided, in so far as relevant, as follows:

Basic concepts

> "1. The Investigative Service of the Ministry of Defence of the Republic of Armenia ('the Ministry', 'the Investigative Service') is a separate unit outside the ministry staff which carries out investigations ...
>
> ...
>
> 4. The Investigative Service shall be formed, reorganised and its functioning shall be terminated by the government of the Republic of Armenia ('the founder'). The statute,

structure and number of staff shall be established by the founder on the basis of a submission by the Minister of Defence ('the Minister') ...

The salary scales and the number of employees of the structural subdivisions of the Investigative Service shall be approved by the Minister.

5. The powers of the Investigative Service shall be defined by the law as well as by international treaties [ratified by] the Republic of Armenia.

6. The Investigative Service may obtain ... rights and carry out obligations on behalf of the Republic of Armenia ...acting as a plaintiff or defendant in court.

7. The Investigative Service shall have its own seal with the image of the coat of arms of the Republic of Armenia ... among other means of identification ...

8. The Republic of Armenia shall bear responsibility for the obligations of the Investigative Service.

...

12. The Minister shall carry out the governance [administration] of the Investigative Service. The direct management of the Investigative Service shall be performed by the head of the Investigative Service, who shall be appointed to and dismissed from the post by the President of the Republic of Armenia.

...

15. The head of the Investigative Service shall report to the Minister.

..."

E. Decision of the Constitutional Court of 24 January 2012 on the conformity of the provision "upon the completion of the investigation" in Article 59 § 1 (9) and Article 201 § 1 of the CCP with the Constitution, adopted on the basis of the application lodged by the first applicant

88. The Constitutional Court found that the provision "upon the completion of the investigation" in Article 59 § 1 (9) and Article 201 § 1 of the CCP (see paragraphs 84-85 above) were compatible with the Constitution. It found, *inter alia*, that the provisions in question did not restrict the rights of the victim party in criminal proceedings since the victim party had the right to be provided with copies of a number of documents during the investigation, which enabled him or her to lodge applications in court, dispute the actions and decisions of the investigating authority and take other actions. The Constitutional Court at the same time pointed out that the investigating authority's power under Article 201 § 1 was not absolute, and that its exercise should be in the interests of the investigation.

II. RELEVANT INTERNATIONAL MATERIAL

89. The relevant extracts from the Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit

to Armenia from 18 to 21 January 2011(CommDH(2011)12, 9 May 2011) read as follows (footnotes omitted):

> **"III. Human rights situation in the army**
>
> ...
>
> 1. Acts of violence within the army...
>
> 132. In the end of July 2010, seven persons serving in the Armenian army died in violent non-combat incidents. One case related to the death of the contracted officer [A.] Nazaryan at a military unit located in the Tavush region. The Commissioner met with the mother of the victim. The investigation concluded that he had been incited to commit suicide, whereas the family believes that it was intentional murder, given the numerous injuries found on the body and certain serious discrepancies in the investigation. The forensic expertise confirmed that serious injuries had been inflicted on Mr Nazaryan before his death. According to Mr Nazaryan's relatives, the victim had difficult relations with the commander and deputy commander of the unit. One officer (the deputy commander) and four conscripts have been arrested for ill-treating Mr Nazaryan and driving him to suicide. According to the information at the Commissioner's disposal, the commander has not been held accountable."

THE LAW

I. JOINDER OF THE APPLICATIONS

90. Having regard to the similar subject matter of the applications, the Court finds it appropriate to order their joinder (Rule 42 § 1 of the Rules of Court) and to examine them in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

91. The applicants complained about the death of A. Nazaryan, an officer of the Armenian army, and that the investigation into the matter had been ineffective. They relied on Article 2 of the Convention, the relevant part of which reads as follows:

> "1. Everyone's right to life shall be protected by law."

A. Admissibility

1. Compliance with the six-month rule

(a) The parties' submissions

92. The Government maintained that the six-month period in relation to the applicants' complaint about the State's alleged failure to protect A. Nazaryan's life during military service should be calculated from 10 August 2010, the date of the adoption of the order of the Minister of Defence whereby disciplinary penalties had been imposed on several

commanding officers of the military unit (see paragraph 33 above). They argued that the final decision in the criminal proceedings against Captain H.M., Senior Lieutenant V.H., A.H., M.M. and H.K. should not be regarded as the final domestic decision for the purposes of the calculation of the six-month time-limit in so far as the issue of the responsibility of the State for A. Nazaryan's death was concerned. It was the Government's position that the order of the Minister of Defence of 10 August 2010 was the only domestic decision which should be taken into account in this respect, since it had indicated the shortcomings in the functioning of the military unit which had led to those responsible being subject to disciplinary liability. Since the first and second applicants had lodged their applications with the Court on 23 November 2011 and 3 April 2014 respectively, they had failed to comply with the six-month rule.

93. The applicants argued that the procedure identified by the Government entirely failed to comply with the requirements of effectiveness under Article 2 of the Convention and did not constitute an effective domestic remedy within the meaning of Article 35 § 1 of the Convention. They submitted that the order of the Minister of Defence of 10 August 2010 (see paragraph 33 above) was an act of executive power that was based on the conclusions of the internal inquiry initiated and carried out by officials of the Ministry of Defence in order to investigate the matter from the standpoint of strengthening military discipline and order in the military forces. That inquiry could not have and had not involved the participation of the applicants; had not been public, nor had the material collected been made available to the applicants or the courts; had been conducted by the Ministry of Defence into the operation of the military itself; and had been intended to address internal disciplinary matters rather than to redress the harm suffered by the applicants.

(b) The Court's assessment

94. As a rule, the six-month period runs from the date of the final decision in the process of exhaustion of domestic remedies. Where it is clear from the outset, however, that no effective remedy is available to the applicant, the period runs from the date of the acts or measures complained of, or from the date of knowledge of that act or its effect on or prejudice to the applicant, and, where the situation is a continuing one, once that situation ends (see, among other authorities, *Mocanu and Others v. Romania* [GC], nos. 10865/09 and 2 others, § 259, ECHR 2014 (extracts)).

95. The Government contended that the six-month period in respect of the applicants' complaint about the State's alleged failure to protect A. Nazaryan's life during military service should be calculated from 10 August 2010, the date of the adoption of the order of the Minister of Defence whereby disciplinary penalties had been imposed on several commanding officers of the military unit following an internal investigation into the events in question (see paragraph 92 above).

96. The Court observes at the outset that the Government failed to provide any details or documents in relation to the internal investigation carried out by the Ministry of Defence. The only available document in this regard is the order of the Minister of Defence of 10 August 2010 (see paragraph 33 above) – provided to the Court by the applicants – which contains no details whatsoever about the internal investigation in question, such as its dates, duration, the names and positions of the officials who ordered it or those of the officials who conducted it.

97. In any event, it is clear that the investigation by the Ministry of Defence was purely internal and that the applicants were neither aware of it, nor were they provided with any material relating to it. They were merely provided with a copy of the order of the Minister of Defence of 10 August 2010 along with the rest of the material in the case file upon the completion of the criminal investigation almost a year later (see paragraphs 51 and 93 above). It is also clear from the content of the order of 10 August 2010 (see paragraph 33 above) that it was of a purely disciplinary nature and concerned the specific officials who were reprimanded for certain breaches of internal service regulations identified therein rather than addressing in any form the question of the responsibility of the authorities and the Ministry of Defence in particular for the failure to protect A. Nazaryan's life during military service.

98. Against this background, the Court finds that the order of the Minister of Defence of 10 August 2010 cannot be considered a "final decision" within the meaning of Article 35 § 1 of the Convention.

99. The Court notes that the Government did not indicate any procedure available to the applicants under domestic law that would have constituted a more suitable remedy than the criminal proceedings with respect to their grievance that the authorities had failed to protect A. Nazaryan's life. The Court has therefore no reason to consider that the criminal proceedings in respect of the circumstances of A. Nazaryan's death, which led to the conviction of his direct superior and subordinates, was an ineffective remedy in respect of the applicants' complaints under Article 2 of the Convention. It observes in this connection that the final decision in those proceedings was served on the applicants on 3 October 2013 (see paragraph 75 above) and that the first applicant lodged her application on 23 November 2011, while the second applicant lodged her application on 3 April 2014, that is, in compliance with the six-month rule as regards both applicants. The Court therefore dismisses the Government's objection as to the failure to comply with the six-month rule.

2. Other grounds for inadmissibility

100. The Court notes that the applications are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

B. Merits

1. *The parties' submissions*

(a) The applicants

101. The applicants alleged that A. Nazaryan had been murdered by members of the armed forces in violation of the substantive limb of Article 2 of the Convention.

102. Furthermore, and in the alternative to their submission that A. Nazaryan had been murdered, the applicants submitted that the State had failed in its obligation under Article 2 of the Convention to prevent his severe ill-treatment and bullying by his superiors and subordinates which had caused his suicide and/or to protect his life by taking reasonable measures to prevent the foreseeable risk of his taking his own life.

103. Whether A. Nazaryan had been murdered or had committed suicide – which had not been conclusively established at the domestic level – his death had occurred within the exclusive control of the military authorities and the State had therefore been required to provide a plausible explanation for the circumstances surrounding his death, which the applicants believed it had failed to do.

104. The applicants pointed to the multiple errors and inaccuracies in the criminal investigation, acknowledged by the Government in their observations, including:

- confusion as to the place where A. Nazaryan's body had been discovered;
- an erroneous date on the record of the examination of the scene of the incident;
- inaccuracy with regard to the cartridge number submitted for a combined ballistic, trace and fingerprint examination;
- the forensic expert erroneously mentioning an injury to the wrist which he had never discovered; and
- the incorrect number of photographs attached to the forensic medical expert's conclusion.

They further pointed to the absence of any plausible explanation by the Government regarding the number of cartridges found in the magazine of A. Nazaryan's rifle, the vitiating of any fingerprints on the rifle and the alleged consumption of a large volume of alcohol by A. Nazaryan prior to his death.

105. The applicants went on to argue that the investigation into the death of A. Nazaryan had not been objectively independent, bearing in mind that the investigators of the Sixth Garrison Investigative Service of the Ministry of Defence were employees of the Ministry of Defence and the matters concerning their appointment, promotion and remuneration were under the jurisdiction of the Ministry of Defence.

106. The family of the deceased had been permitted only limited participation in the investigation, having been granted access to the case file only after the completion of the investigation. The investigator had not provided reasons for his decision to refuse the first applicant's request to be provided with photocopies of the documents that contained A. Nazaryan's handwriting samples, including those in the notebook. The applicants submitted that the application of Articles 59 and 201 of the CCP in a formalistic manner in a case concerning a grave crime such as that in issue in the present case had deprived them of any meaningful right to participate effectively in the investigation.

107. Lastly, the applicants submitted an expert report by a forensic pathologist based in the United Kingdom which stated, *inter alia*, that the consumption of the presumed quantity of alcohol by A. Nazaryan would almost certainly have caused visible intoxication with unsteadiness and slurring of speech.

(b) The Government

108. The Government asserted that the domestic criminal law provisions provided an effective law-enforcement mechanism for the prevention, suppression and punishment of any potential breaches of Article 2 of the Convention. In this connection they referred to the Criminal Code (see paragraphs 76. Article 38 of the Criminal Code lists the types of accomplices in the commission of a crime. According to Article 38 § 2 a principal is a person who has directly committed a crime or has directly participated in the commission of a crime together with other persons (co-offenders).

77-83 above) and the Law on Establishing the Internal Service Regulations of the Armed Forces of Armenia (see paragraph 86 above). The Government also referred to the "Methodological guide for working with service personnel with the purpose of prevention of suicide and ensuring a healthy moral environment", a document approved by a head of department of the Ministry of Defence in 2004.

109. The Government highlighted the fact that, as opposed to conscripts undergoing mandatory military service, A. Nazaryan had been recruited to the army on a contractual basis and of his own free will and nothing had prevented him from resigning at any time. They therefore asked the Court to consider that element in its assessment in the present case.

110. The Government asserted that there was nothing in the present case which could have led the domestic authorities to assume that A. Nazaryan would commit suicide. They submitted that he had never shown any such intention.

111. The Government admitted that on 26 July 2010 Captain H.M. had assumed that A. Nazaryan could possibly harm himself and had ordered the officers to discreetly take the firing pin out of his assault rifle, but stated that the order had unfortunately not been implemented on account of

circumstances beyond H.M.'s control. In the Government's opinion, however, H.M.'s subjective perception should not be considered decisive in determining whether there had existed a real and immediate risk to A. Nazaryan's life. Furthermore, had H.M.'s order been implemented while A. Nazaryan was on military duty at the border, he would have been deprived of the possibility of defending himself if there had been a military attack.

112. The Government submitted that although there were "some technical errors" in the documents issued during the pre-trial investigation, those errors had not undermined the credibility and efficiency of the investigation into the circumstances of A. Nazaryan's death.

As regards, for example, the inconsistency in the indication of the place where A. Nazaryan's body had been discovered (see paragraphs 10 and 15 above), the Government stated, *inter alia*, that the confusion had arisen from the report sent to the Ministry of Defence and they referred to the testimony of S.G., the commander of the military unit, during the trial (see paragraph 65 above). They also referred to the witness statements of Captain H.M., A.Mk., G.S., H.N., A.H., A.M. and M.M., submitting that those witnesses had stated that they had seen the body next to a rock.

The Government then asserted that the indication of 28 July 2010 (see paragraph 15 above), as opposed to 27 July 2010, in the record of the examination of the scene of the incident was a "mechanical mistake" (see also paragraph 16 above), and referred to various other documents, including the record of the examination of the body dated 27 July 2010.

They then contested the applicants' contention in the application form that the investigator had deliberately eliminated any primary fingerprints from A. Nazaryan's assault rifle. In that connection the Government referred to the report of 17 August 2010 according to which "fragments of sweat and grease deposits" had been discovered on the assault rifle (see paragraph 35 above) and stated that, were the applicants' contention valid, nothing would have been found by the ballistic expert.

The Government stated that the investigator had removed the magazine and emptied it for safety reasons and had performed a test shot to assure that the rifle was not loaded. They then explained the inaccuracy with regard to the number (78-09 as opposed to 60-78) on the cartridge submitted for a combined ballistic, trace and fingerprint examination (see, in particular, paragraphs 17 and 35 above) as a "mechanical error". They submitted that the investigator had simply rotated the cartridge and the number 60 stamped on it had appeared as 09. In any event, the expert had established that the submitted cartridge had been fired from A. Nazaryan's assault rifle.

In so far as the injuries discovered on A. Nazaryan's body were concerned, the Government submitted that there had been another misunderstanding stemming from an error on the part of the forensic medical expert who had mistakenly mentioned "an abrasion in the area of the fifth digit of the right wrist", which he had not in fact discovered, as he had later testified (see

paragraph 67 above). The fact that sixteen photographs had been attached to the forensic medical expert's report instead of the nineteen indicated therein had also been the result of an error, as explained by the expert (ibid.).

113. Referring to the sizeable number of witness interviews and confrontations, investigative measures, including the urgent ones carried out on the date of the incident, and forensic expert examinations, the Government submitted that the investigation into A. Nazaryan's death had been prompt and adequate.

114. The Government further submitted that the investigation had been independent and impartial. They stated in that connection that the Investigative Service of the Ministry of Defence was an entity that was separate from its staff. There was therefore no hierarchical or institutional interconnection between the Investigative Service and the members of the armed forces. In addition, the Investigative Service had been created and its functioning could be terminated by the government, while the head of the Investigative Service was appointed and dismissed by the President of the Republic of Armenia (see paragraph 87 above).

115. Lastly, the Government submitted that the applicants had been closely involved in the investigation. They referred to the Constitutional Court's decision (see paragraph 88 above) and the Court's case-law (citing *Hugh Jordan v. the United Kingdom*, no. 24746/94, § 121, 4 May 2001) to support their argument that the refusal of the first applicant's request to provide her with the handwriting samples had been legitimate and in the interests of the investigation. They submitted that the documents which contained A. Nazaryan's handwriting samples had concerned witnesses and the accused in relation to whom the investigation was still in process. Therefore, the disclosure of that material at that stage of the proceedings would have been inexpedient. In any event, at the close of the investigation, the applicants had been provided with the entirety of the material in the case file.

2. *The Court's assessment*

(a) General principles

(i) Substantive limb

116. The Court reiterates that Article 2, which safeguards the right to life, ranks as one of the most fundamental provisions in the Convention. Together with Article 3, it also enshrines one of the basic values of the democratic societies making up the Council of Europe. The object and purpose of the Convention as an instrument for the protection of individual human beings requires that Article 2 be interpreted and applied so as to make its safeguards practical and effective (see, among other authorities, *McCann and Others v. the United Kingdom*, 27 September 1995, §§ 146-47, Series A no. 324).

117. The first sentence of Article 2 § 1 enjoins the State not only to refrain from the intentional and unlawful taking of life, but also to take appropriate steps to safeguard the lives of those within its jurisdiction (see *L.C.B. v. the United Kingdom*, 9 June 1998, § 36, *Reports of Judgments and Decisions* 1998-III). This involves a primary duty on the part of the State to adopt and implement a legislative and administrative framework designed to provide effective deterrence against threats to the right to life (see *Boychenko v. Russia*, no. 8663/08, § 77, 12 October 2021; and, *mutatis mutandis*, *Osman v. the United Kingdom*, 28 October 1998, § 115, *Reports* 1998-VIII, and *Kurt v. Austria* [GC], no. 62903/15, § 157, 15 June 2021).

118. The Court has found in several cases concerning fatalities during military service that contractual military servicemen are within the exclusive control of the authorities of the State and that the authorities are under a duty to protect them (see, for example, *Beker v. Turkey*, no. 27866/03, §§ 5 and 43, 24 March 2009, concerning the alleged suicide of an expert corporal serving on a paid basis in the armed forces; *Durdu v. Turkey*, no. 30677/10, §§ 6 and 62, 3 September 2013; and *Yasemin Doğan v. Turkey*, no. 40860/04, §§ 8, 43 and 45, 6 September 2016, concerning the suicides of staff sergeants). Furthermore, in its recent judgment in *Boychenko* (cited above), which concerned the suicide of a contractual military serviceman who was a lieutenant, the Court confirmed this approach noting that the conditions of life and service of contractual servicemen corresponded to those of conscripts as they also were under the exclusive control of the authorities (see *Boychenko*, cited above, §§ 5 and 80; see also *Tomac v. the Republic of Moldova*, no. 4936/12, § 52, 16 March 2021).

119. The obligation to safeguard lives also extends in appropriate circumstances to a positive obligation on the authorities to take preventive operational measures to protect an individual whose life is at risk from the criminal acts of another individual or, in certain particular circumstances, against himself or herself (see *Osman*, cited above, § 115; *Keenan v. the United Kingdom*, no. 27229/95, § 89, ECHR 2001-III; *Kılınç and Others v. Turkey*, no. 40145/98, § 40, 7 June 2005; *Durdu*, § 62; and *Yasemin Doğan*, § 43, both cited above).

120. Not every claimed risk to life can entail for the authorities a Convention requirement to take operational measures to prevent that risk from materialising. The Court must examine whether the authorities knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual and, if so, whether they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk (see *Keenan*, cited above, §§ 89 and 93; *Şahinkuşu v. Turkey*, no. 38287/06, § 58, 21 June 2016; and *Kurt*, cited above, § 158).

121. Concerning suicide risks in particular, the Court has previously had regard to a variety of factors in order to establish whether the authorities knew

or ought to have known that the life of a particular individual was subject to a real and immediate risk, triggering the duty to take appropriate preventive measures. These factors commonly include: a history of mental health problems; the gravity of the mental condition; previous attempts to commit suicide or self-harm; suicidal thoughts or threats; and signs of physical or mental distress (see *Fernandes de Oliveira v. Portugal* [GC], no. 78103/14, § 115, 31 January 2019, and the references cited therein). The principles established in the above-cited *Fernandes de Oliveira* case, which concerned the suicide of a mentally ill man undergoing inpatient treatment in a State psychiatric hospital, apply equally to people in custody and, similarly to them, to conscripts and contractual servicemen (see *Boychenko*, cited above, § 80, with further references).

122. Furthermore, States are expected to set high professional standards among military personnel and ensure that military servicemen meet the requisite criteria. According to the Court's case-law, the State bears responsibility for the death of a victim who was driven to suicide by his bullying and ill-treatment by his hierarchical military supervisors (ibid.).

123. Lastly, in assessing evidence, the Court adopts the standard of proof "beyond reasonable doubt". However, such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact. Where the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities, as in the case of persons within their control in custody or in the army, strong presumptions of fact will arise in respect of injuries and death occurring during that detention or service. Indeed, the burden of proof may be regarded as resting on the authorities to provide a satisfactory and convincing explanation (see, among many other authorities, *Anguelova v. Bulgaria*, no. 38361/97, §§ 109-11, ECHR 2002-IV).

(ii) Procedural limb

124. The obligation to protect the right to life under Article 2 of the Convention, read in conjunction with the State's general duty under Article 1 to "secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention", requires by implication that there should be an effective official investigation when individuals have been killed as a result of the use of force, either by State officials or private individuals (see, among many other authorities, *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], no. 24014/05, §§ 169 and 171, 14 April 2015). The essential purpose of such an investigation is to secure the effective implementation of the domestic laws which protect the right to life. The same standards also apply to investigations concerning fatalities during military service, including the suicide of contractual military servicemen (see *Boychenko*, cited above, § 81, and the cases cited therein).

125. The investigation must be effective in the sense that it is capable of leading to the establishment of the facts and, where appropriate, the identification and punishment of those responsible (see *Mustafa Tunç and Fecire Tunç*, cited above, § 172; and *Nana Muradyan v. Armenia*, no. 69517/11, § 125, 5 April 2022).

126. The obligation to conduct an effective investigation is an obligation not of result but of means: the authorities must take the reasonable measures available to them to secure evidence concerning the incident at issue, including, *inter alia*, eyewitness testimony, forensic evidence and, where appropriate, an autopsy which provides a complete and accurate record of injury and an objective analysis of clinical findings, including the cause of death. However, the effectiveness of an investigation cannot be gauged simply on the basis of the number of reports made, witnesses questioned or other investigative measures taken. The investigation's conclusions must be based on thorough, objective and impartial analysis of all relevant elements. Failing to follow an obvious line of inquiry undermines to a decisive extent the investigation's ability to establish the circumstances of the case and, where appropriate, the identity of those responsible and is liable to fall foul of the required measure of effectiveness (see *Muradyan v. Armenia*, no. 11275/07, § 135, 24 November 2016, with further references, and *Nana Muradyan*, cited above, § 126).

127. Moreover, the persons responsible for the investigations should be independent of anyone implicated or likely to be implicated in the events. This means not only a lack of hierarchical or institutional connection but also a practical independence (see *Mustafa Tunç and Fecire Tunç*, cited above, § 177).

128. In addition, the investigation must be accessible to the victim's family to the extent necessary to safeguard their legitimate interests. There must also be a sufficient element of public scrutiny of the investigation, the degree of which may vary from case to case (see *Hugh Jordan*, cited above, § 109). The requisite access of the public or the victim's relatives may, however, be provided for in other stages of the procedure (see, among other authorities, *Giuliani and Gaggio v. Italy* [GC], no. 23458/02, § 304, ECHR 2011 (extracts), and *McKerr v. the United Kingdom*, no. 28883/95, § 129, ECHR 2001-III).

129. Article 2 does not impose a duty on the investigating authorities to satisfy every request for a particular investigative measure made by a relative in the course of the investigation (see *Ramsahai and Others v. the Netherlands* [GC], no. 52391/99, § 348, ECHR 2007-II).

130. Lastly, the question of whether an investigation has been sufficiently effective must be assessed on the basis of all relevant facts and with regard to the practical realities of investigation work. The nature and degree of scrutiny which satisfy the minimum threshold of the investigation's effectiveness depend on the circumstances of the particular case (see, among other

authorities, *Muradyan*, § 136, with further references, and *Nana Muradyan*, §127, both cited above).

(b) Application of those principles in the present case

(i) Substantive limb

131. A. Nazaryan was an officer of the armed forces of Armenia holding the rank of a lieutenant when he died.

132. The applicants questioned the official finding of the criminal investigation that A. Nazaryan had committed suicide and alleged that he had been murdered (see paragraph 101 above). In this connection, they referred to a number of errors and inaccuracies in the investigation, which were summarised earlier (see, in particular, paragraph 104 above). At the same time, in their observations the applicants seemingly did not rule out the possibility that A. Nazaryan had committed suicide (see paragraph 102 above), arguing, however, that neither hypothesis – murder or suicide – had been conclusively established by the domestic authorities (see paragraph 103 above).

133. The Court reiterates that the applicable standard of proof under Article 2 of the Convention is that of "beyond reasonable doubt" (see the case-law cited in paragraph 123 above). It notes that in the course of the criminal investigation there were a number of serious inaccuracies in relation to several important circumstances surrounding A. Nazaryan's death, such as, for example, the place where his body had been discovered (see paragraphs 10 and 15 above). There were also inaccuracies in relation to forensic evidence, including with regard to the identification of the injuries on A. Nazaryan's body during the autopsy, the number of photographs attached to the autopsy report (see paragraph 37 above) and the number on the cartridge which had been found at the place of the incident and submitted for a combined ballistic, trace and fingerprint examination (see paragraphs 17 and 35 above), all of which were explained during the domestic proceedings (see paragraphs 66 and 67 above) and by the Government in their observations (see paragraph 112 above) as having been the result of "technical" or "mechanical" errors.

134. In view of the carelessness with which the investigation was conducted and the lack of satisfactory explanations for a number of serious discrepancies with regard to its findings (see paragraphs 163-167 below), the applicants could be forgiven for seriously questioning the official version and thinking that the investigation might be covering up a more sinister explanation, such as murder (see *Beker*, cited above, § 52). Nevertheless, the material before the Court does not allow it to support "beyond reasonable doubt" the hypothesis that A. Nazaryan's life was taken intentionally (contrast *Beker*, cited above, §§ 45-54, and *Lapshin v. Azerbaijan*, no. 13527/18, §§ 110-20, 20 May 2021; see also, *mutatis mutandis*,

Mižigárová v. Slovakia, no. 74832/01, § 89, 14 December 2010). Thus, any allegation that A. Nazaryan was murdered would be purely speculative (see, *mutatis mutandis*, *Abdullah Yılmaz v. Turkey*, no. 21899/02, § 59, 17 June 2008; *Durdu*, cited above, §§ 59-61; and *Nana Muradyan*, cited above, §§ 130-31).

135. According to the official version, A. Nazaryan committed suicide as a consequence of ill-treatment and harassment by his superior and conscripts under his command (see, in particular, paragraphs 52 and 68 above). As stated above, the State bears responsibility for the death of a victim who was driven to suicide by his bullying and ill-treatment during military service (see paragraph 122 above).

136. The Government appeared to suggest (see paragraph 109 above) that the nature of the State's positive obligations under Article 2 of the Convention in the present case was different from that of the positive obligations arising in cases concerning persons undergoing compulsory military service, considering that A. Nazaryan was a contractual serviceman.

137. The Court notes, however, that, as noted above, it has already found that the applicable principles concerning the State's positive obligations under Article 2 of the Convention were the same for contractual military servicemen who were within the exclusive control of the authorities (see, in particular, the case-law cited in paragraph 118 above).

138. Against this background, the Court sees no reason to depart from the approach adopted in the above-mentioned case-law in the present case and will therefore base its assessment on the principles established therein (see paragraphs 116-123 above).

139. The Government claimed that, apart from the relevant criminal law provisions, the domestic legislation contained an appropriate legal framework concerning prevention of suicide in the armed forces of Armenia (see paragraph 108 above).

140. However, there is nothing in the material before the Court to suggest that at the relevant time there existed any system of psychological assessment and assistance in the military forces, including with regard to initial and subsequent psychological screening, prevention of suicides and availability of psychological assistance during military service (compare and contrast *Boychenko*, cited above, §§ 40-56 and 86).

141. The Court notes in this connection that the only relevant document produced by the Government was the "Methodological guide for working with service personnel with the purpose of prevention of suicide and ensuring a healthy moral environment" ("the guide" – see paragraph 108 above). The Court observes, however, that this document, approved on an unspecified date in 2004 by a head of an unspecified department of the Ministry of Defence, is essentially a set of guidelines issued by an official working in the staff of the Ministry of Defence (compare, for example, *Boychenko*, cited

above, § 40). Furthermore, there is no evidence to suggest that any efforts were made to implement those guidelines in practice.

142. The Court further observes that, in terms of its content, the guide describes research into suicide, including possible reasons for it and the external signs and typical symptoms displayed by persons at risk of committing suicide. It also sets out the criteria to be taken into account when deciding on the matter of the necessity of inpatient treatment of service personnel with the purpose of prevention of suicide, including urgent inpatient treatment of service personnel who have attempted to commit suicide or have stated that they have had such an intention. It is not clear, however, to whom specifically the guide is addressed – the medical staff, the command staff of military units or other persons.

143. Lastly, for the purpose of the prevention of suicides the guide recommends, *inter alia*, the creation of a service – not contained within the staff of the military units – which would examine cases of suicides and which would be headed by a physician or an “officer-psychologist”. There is nothing to indicate, however, that this recommendation has been followed since the guide was produced in 2004.

144. The Court reiterates that the question whether there has been a failure by the State to comply with its regulatory duties calls for a concrete rather than an abstract assessment of any alleged deficiency. The Court’s task is not normally to review the relevant law and practice *in abstracto*, but to determine whether the manner in which they were applied to, or affected, the applicant or the deceased gave rise to a violation of the Convention. Therefore, the mere fact that the regulatory framework may be deficient in some respects is not sufficient in itself to raise an issue under Article 2 of the Convention. It must be shown to have operated to the patient’s detriment (see *Fernandes de Oliveira v. Portugal* [GC], no. 78103/14, § 107, 31 January 2019 and *Boychenko*, cited above, §§ 85-87).

The Court observes that, in the absence of any system of psychological assistance in the military forces, no psychological support whatsoever was available to A. Nazaryan despite his vulnerable psychological condition and the apparent signs of suicide risk (see paragraph 52 above and paragraphs 148 and 150 below). Furthermore, there being no regulations with regard to prevention of suicide in the military forces, those in charge did not have any instructions or guidance on how to deal with the situation (see paragraph 151 below).

Accordingly, on the basis of the available material, the Court finds that the respondent State failed to comply with its positive obligation under Article 2 of the Convention to take appropriate measures which could have been used to safeguard A. Nazaryan’s life.

145. The Court will next examine whether the authorities knew or should have known of the existence of a real and immediate risk that A. Nazaryan would commit suicide and, if so, whether they did all that could reasonably

have been expected of them to avoid that risk from materialising (see *Kurt*, cited above, §§ 157-60).

146. The Court notes at the outset that there is no evidence in the present case to indicate that A. Nazaryan had ever suffered from a mental disorder (see paragraph 48 above) or had a history of suicide attempts or self-harm.

147. That being said, the Court notes that it was unequivocally established during both the criminal and internal investigations that A. Nazaryan had fallen victim to constant ill-treatment and humiliation by fellow servicemen, including his direct superior and conscripts under his command (see paragraphs 33 and 52 above). In particular, the investigation concluded that A. Nazaryan's suicide was directly linked to the ill-treatment and humiliation suffered at the hands of his fellow servicemen (see paragraphs 48, 52 and 68 above).

148. Furthermore, it appears from the available material that many fellow officers and conscripts were aware of A. Nazaryan's low morale as a consequence of his humiliation and ill-treatment by fellow servicemen, including conscripts under his command, which itself had originated in his ill-treatment by Captain H.M., his superior, in the presence of others (see paragraphs 38, 39, 48 and 52 above).

149. In particular, according to the findings of the internal inquiry, Captain H.M., being A. Nazaryan's direct commander, had assaulted him in the presence of the staff, "thereby affronting his dignity and creating an unhealthy moral environment in the military base", resulting in A. Nazaryan being ill-treated by conscripts under his own command. That situation was concealed from the command, resulting in A. Nazaryan's self-isolation and the deterioration of his psychological condition to a critical level (see paragraph 33 above).

150. It was then established during the criminal investigation that as of 26 July 2010 it "had become evident" to the servicemen of the military base that A. Nazaryan might harm himself, which is why Captain H.M. had ordered that the firing pin be taken out of A. Nazaryan's assault rifle (see paragraph 52 above). However, even before that, on 19 July 2010, that is, at the latest one week before the incident, Captain H.M and Senior Lieutenant V.H. had had such suspicions following the incident during which A. Nazaryan's nose had bled after he had been assaulted by them (see, in particular, paragraphs 22, 45 and 52 above). The Court therefore considers that, at the very latest on 26 July 2010, A. Nazaryan's superiors knew, or should have known, that there was a real and immediate risk that he might commit suicide.

151. It appears that the command of the military unit were not aware of the situation in which A. Nazaryan found himself, considering that neither Captain H.M. nor Senior Lieutenant V.H. had reported anything to their superiors. Nor did the other servicemen who were aware of the situation (see, for example, paragraph 39 above), including those present during the

conversation in the canteen on the afternoon of 26 July 2010 (see paragraph 44 above), at any point report to the command of the military unit that A. Nazaryan was experiencing serious mental distress and possibly having suicidal thoughts. At the same time, given the above-mentioned absence at the relevant time of any system of psychological assessment and assistance in the military forces (see paragraphs 140-144 above), it is not clear what measures, if any, the command of the military unit could have undertaken had they been aware of the situation (contrast *Boychenko*, cited above, §§ 92-95).

152. In any event, even if the highest command were unaware of the matter, Captain H.M., the officer put in charge of the military base and A. Nazaryan's direct commander, being clearly aware of the latter's extremely vulnerable psychological condition and the possibility that he could harm himself as a result primarily of abuse on his own part, failed not only to report the matter, but also to undertake any measures to avoid the risk to A. Nazaryan's life. What is more, Captain H.M. humiliated A. Nazaryan yet again on the afternoon of 26 July 2010, threatening to humiliate him even further by organising a "court of honour" (see paragraph 22 above). There is nothing to indicate, at least from the available material, that anything else happened between the conversation which apparently took place on the afternoon of 26 July 2010 and the next morning, when A. Nazaryan was found dead.

153. Lastly, from the Government's submissions it is not clear whether H.M.'s order to take the firing pin out of A. Nazaryan's assault rifle was in their opinion an appropriate response to the latter's signs of extreme mental distress and suicidal intentions. The Government even suggested that such an order was contrary to the rules of active military duty (see paragraph 111 above). Moreover, H.M. did not take any steps to ensure that his order had actually been followed up.

154. For the above reasons, the Court finds that the State failed to comply with its positive obligation to take appropriate steps to safeguard A. Nazaryan's life during his military service.

155. Having regard to the findings set out in paragraphs 144 (*in fine*) and 154 above, the Court concludes that the State failed to take appropriate and effective measures to prevent the known risk to A. Nazaryan's life from materialising.

156. There has accordingly been a violation of Article 2 of the Convention under its substantive limb.

(ii) Procedural limb

157. The Court reiterates that compliance with the procedural requirement under Article 2 is assessed on the basis of several essential parameters: the adequacy of the investigative measures, the promptness of the investigation, the involvement of the deceased's family and the independence of the

investigation. These elements are interrelated and each of them, taken separately, does not amount to an end in itself. They are criteria which, taken jointly, enable the degree of effectiveness of the investigation to be assessed (see *Mustafa Tunç and Fecire Tunç*, cited above, § 225). Having this in mind, the Court will proceed with the examination of those elements in respect of the criminal investigation carried out in the present case, starting with its promptness.

(α) Promptness of the investigation

158. The Court notes that the Ministry of Defence was informed about A. Nazaryan's death immediately on the day of the incident, that is, 27 July 2010, and that the Investigative Service opened an investigation promptly of its own motion taking initial investigative measures on the same day (see paragraphs 8-11 above).

159. The investigation, which led to the prosecution and conviction of A. Nazaryan's fellow servicemen, was completed within a year, that is, around July-August 2011 (see paragraphs 51 and 52 above) and the examination of the case by the courts was completed in September 2013 (see paragraph 75 above), that is, within a further two years.

160. In those circumstances, the Court considers that the investigation was conducted with the requisite diligence and that there was no unjustified delay in the investigation.

(β) Adequacy of the investigation

161. It should be observed at the outset that the authorities took a number of investigative measures to collect evidence relating to the events in issue. Indeed, as pointed out by the Government (see paragraph 113 above), the authorities conducted interviews of a sizeable number of witnesses, undertook various investigative measures, including on the date of the incident with a view to securing evidence, and ordered a number of forensic expert examinations.

162. However, as reiterated above, the effectiveness of an investigation cannot be gauged simply on the basis of the number of reports made, witnesses questioned or other investigative measures taken. The investigation's conclusions must be based on a thorough, objective and impartial analysis of all relevant elements (see paragraph 126 above), which, in the Court's opinion, was not the case as regards the investigation into the circumstances surrounding A. Nazaryan's death, for the reasons which follow.

163. The Court notes that there was a discrepancy between the report of the incident from the command of the military unit received on the morning of 27 July 2010 by the Ministry of Defence and the record of the examination of the scene of the incident with regard to the scene of the incident, the former

stating that A. Nazaryan had shot himself inside the trench and the latter indicating that the body had been discovered next to a rock in the territory of military base no. 12 (see paragraphs 10 and 15 above). The Government stated in that connection that Captain H.M., A.Mk., G.S., H.N., A.H., A.M. and M.M. had submitted in their witness statements that they had seen the body next to a rock, as indicated in the record of the examination of the crime scene and that S.G. had clarified the matter when questioned during the trial (see paragraph 112 above). The Court observes, however, that there is nothing in the statements of Captain H.M., A.Mk., G.S., H.N., A.H., A.M. and M.M. submitted to the Court which would suggest that they had been specifically asked about the location of the body. It is not clear which command official of the military unit had sent the report in question to the Ministry of Defence. In any event, of all the witnesses mentioned by the Government, it was only S.G., the commander of the same military unit, who was asked about the discrepancy at issue during the trial (see paragraph 65 above). There is nothing to indicate that the other witnesses referred to by the Government confirmed their alleged pre-trial statements with respect to the place of the incident during the trial.

164. The Court further notes that, according to the record of the examination of the scene of the incident, the investigator had seized a cartridge bearing the numbers 78-09 which had been discovered on the ground close to the body (see paragraph 15 above). The cartridge and A. Nazaryan's assault rifle were then submitted for a combined ballistic, trace and fingerprint forensic examination (see paragraph 17 above). However, the report issued upon completion of the combined ballistic, trace and fingerprint examination indicated a different identifying number for the cartridge that had been submitted to the experts, namely 60-78 (see paragraph 35 above). The Government explained the discrepancy between the two numbers as a "mechanical error", claiming that the investigator had rotated the cartridge and the number 60 stamped on it had appeared as 09 (see paragraph 112 above). The Court observes, however, that this explanation does not appear anywhere in the material in the case file. Therefore, and in the absence of any supporting evidence, the explanation suggested by the Government for such an important inaccuracy with regard to forensic ballistic evidence gathered during the investigation cannot be considered satisfactory.

165. According to the autopsy report, a number of non-ballistic injuries had been discovered on the body, including abrasions in the area of the right cheek, lower jaw and mastoid process; bruising in the area of the right upper arm; and abrasions in the area of the left half of the chest, left upper arm, left elbow, left forearm, left hip and in the area of the fifth digit of the right wrist (see paragraph 37 above). The Court observes that no adequate explanation was provided for those injuries. It further observes that during the trial the forensic medical expert testified that he had never discovered an abrasion in the area of the fifth digit of the right wrist during the autopsy and that the

indication of that injury in the autopsy report had been the result of a "mechanical error" (see paragraph 67 above). In their turn the Government relied on the forensic medical expert's testimony in stating that there had been a misunderstanding in that respect stemming from the expert's error (see paragraph 112 above). While overlooking an injury or not mentioning an injury discovered during an autopsy may to some extent be considered one possible scenario, the Court finds it hard to conceive how a specific injury on a specific part of the body could be expressly mentioned in an autopsy report as a result of a "mechanical error" without the expert having actually discovered such an injury.

In addition, it was stated at the end of the autopsy report that nineteen photographs were attached, whereas, as indicated by the applicants during the trial (see paragraph 66 above), only sixteen photographs were attached to the report. This fact was likewise explained as an error (see paragraphs 66 and 112 above).

166. The Court also notes that during the examination of the scene of the incident, the investigator performed a number of actions with A. Nazaryan's assault rifle, that is, the suspected instrument of the crime. In particular, he removed the magazine and emptied it, fired a test shot and closed the trigger guard (see paragraph 15 above). As a result, the assault rifle was not submitted for a forensic ballistic, trace and fingerprint examination in the original condition in which it had been discovered at the scene, including any fingerprints that might have been present. Indeed, as stated in the report of the combined ballistic, trace and fingerprint examination, only "fragments of sweat and grease" had been discovered on "some parts of the surface" of the submitted rifle which were not suitable for comparative examination (see paragraph 35 above). That is to say, the investigator's actions made it impossible for the experts to find any fingerprints, including those belonging to A. Nazaryan, on the assault rifle submitted to them. The Government explained the investigator's actions during the examination of the scene of the incident, specifically the removal of the magazine and the test shot, as safety considerations (see paragraph 112 above). However, such an argument cannot be reasonably accepted in the context of a crime scene investigation.

167. Additionally, although it was eventually concluded that A. Nazaryan had committed suicide by having fired a shot into his mouth from his assault rifle (see paragraph 52 above), the investigation failed to explain the fact that no bullet was missing from the magazine with which his assault rifle had been loaded. In particular, according to the record of the examination of the scene of the incident, the investigator had seized a thirty-round magazine which was found to contain twenty-nine bullets in addition to the one which had come out as a result of the unloading operation (see paragraph 15 above). In his decision of 28 July 2010 to order a combined ballistic, trace and fingerprint examination, the investigator requested the experts to determine, *inter alia*, whether the thirty-round magazine could have possibly been loaded with

thirty-one bullets, to which question the experts replied in the affirmative in their report (see paragraphs 17 and 35 above). However, it was never conclusively established during the investigation whether the magazine in question had actually been loaded with thirty-one bullets in a situation where A. Nazaryan's three spare magazines which had been seized earlier by the investigator had apparently been loaded with thirty bullets each (see paragraph 13 above).

168. The Court observes that during the initial days of the investigation and in some instances in the following days, the majority of pre-trial witness statements were obtained from witnesses, including those subsequently accused, who were in military confinement for breaching "internal service rules" (see paragraphs 19, 20, 21, 25 and 30 above). Despite the Court's specific request to provide documentary evidence in relation to the disciplinary isolation of A. Nazaryan's fellow servicemen in July and August 2010, the Government merely provided copies of S.G.'s orders from 27 and 28 July 2010, of which only the latter concerned the matter of the disciplinary isolation of the personnel of military base no. 12 for various periods ranging from three to ten days (see paragraph 26 above). Regardless of that fact, the Government did not contest that after the military confinement of the servicemen pursuant to the order of 28 July 2010 there had been at least two further instances of isolation of servicemen (see, in particular, paragraphs 25 and 30 above). The Court further observes that during the trial, certain evidence was produced to suggest that the military confinement of servicemen had lasted much longer than the period indicated in the order of 28 July 2010 (see, for instance, A.Mk.'s trial testimony in paragraph 64 above) and that there had possibly been ill-treatment of the servicemen during their confinement (see paragraphs 57 and 61 above). Despite that, the Regional Court dismissed the second applicant's request not to admit the witness evidence obtained during the military confinement of A. Nazaryan's fellow servicemen, without any specific reasons being provided (see paragraph 68 above).

169. There were a number of other issues raised by the applicants and subsequently addressed by the Government (see paragraphs 104 and 112 above), such as, for instance, the erroneous date of the record of the examination of the scene of the incident (see paragraph 16 above) and the lack of a plausible explanation for the presence of alcohol in A. Nazaryan's blood sample examined during the forensic medical examination (see paragraph 37 above).

170. In the Court's opinion, however, the gross shortcomings already addressed in detail (see paragraphs 163-168 above) are sufficient for it to seriously question the adequacy of the investigation conducted by the domestic authorities. There is therefore no need to additionally examine the other elements discussed by the parties in their submissions.

(γ) Participation of the deceased's relatives in the investigation

171. The Court notes that from the beginning of the investigation the first applicant was granted victim status and that she was then succeeded in the proceedings by the second applicant (see paragraph 14 above), and there is nothing to indicate that the applicants were not kept informed about the steps in the investigation (contrast *Boychenko*, cited above, § 99). In addition, the applicants were provided with the full case file upon the completion of the investigation (see paragraph 51 above).

172. The applicants specifically complained about the authorities' refusal of the first applicant's request to provide copies of documents containing A. Nazaryan's handwriting samples while the investigation was still pending (see paragraph 106 above).

173. The Court reiterates that, in so far as the accessibility of the investigation to the families of the deceased and the existence of sufficient public scrutiny is concerned, the procedural obligation does not require applicants to have access to police files, or copies of all documents during an ongoing inquiry, or for them to be consulted or informed about every step (see *Gürtekin and Others v. Cyprus* (dec.), nos. 60441/13 and 2 others, § 29, 11 March 2014, with further references).

174. The Court observes that on 28 October 2010 the first applicant requested the investigator to provide copies of documents that contained samples of A. Nazaryan's handwriting, including those in his notebook which had been removed by Captain H.M. from his pocket on the day of the incident and submitted to the investigator about two weeks later (see paragraphs 9 and 31 above). The first applicant stated in connection with that request that she intended to submit those documents to forensic handwriting experts abroad with the purpose of challenging the authenticity of the entries in her son's notebook (see, in particular, paragraph 40 above). The Court further observes that the investigator refused the first applicant's request, with reference to Article 59 § 1 (9) and Article 201 § 1 of the CCP (see paragraphs 84, 85 and 41 above).

175. The Court notes that under domestic criminal procedural law in force at the material time, a victim had the right to study the entirety of the material in the case file upon the completion of the investigation (Article 59 § 1 (9) of the CCP; see paragraph 84 above) and the investigator decided whether or not to make public the information relating to the investigation (Article 201 § 1 of the CCP; see paragraph 85 above). It further notes that, when the application was lodged with the Constitutional Court by the first applicant, Article 59 § 1 (9) and Article 201 § 1 of the CCP were found to be compatible with the Constitution. At the same time, the Constitutional Court stated in its decision that the investigator's power under Article 201 § 1 was not absolute and should be exercised in the interests of the investigation (see paragraph 88 above).

176. The Government submitted that the investigator had not found it to be in the interests of the investigation to disclose the documents which contained A. Nazaryan's handwriting samples since those had concerned witnesses and the accused in relation to whom the investigation was still in process (see paragraph 115 above). The Court observes, however, that no such ground was relied on by the investigator in his decision of 4 November 2010. In fact, the investigator did not refer to any specific grounds with regard to the interests of the investigation, but rather referred to Article 59 § 1 (9) and Article 201 § 1 of the CCP to suggest that the information gathered during the investigation was not subject to disclosure before the completion of the investigation (see paragraph 41 above).

177. The Court reiterates that the requisite access of the public or the victim's relatives may be provided for at other stages of the procedure (see *Giuliani and Gaggio*, cited above, § 304). That being said, in the circumstances of the present case, it would have been objectively impossible for the applicants to obtain forensic expert evidence, let alone from abroad, in the short period between the time that they were provided with the material of the case file, that is, the end of June 2011, and the time when the bill of indictment was finalised in early August 2011 (see paragraphs 51 and 52 above), with the case having been sent for trial court shortly thereafter. Therefore, the fact that they were eventually provided with the requested documents, including the notebook, could no longer remedy the situation.

178. The Court considers that in the circumstances, the fact that A. Nazaryan's notebook, containing what was declared to have been a suicide note written by him, had been removed immediately after his death by Captain H.M. (see paragraph 9 above), one of the accused and the main perpetrator of his ill-treatment, and had been returned only about two weeks later (see paragraph 32 above), rendered it legitimate for the applicants to question whether the torn piece of paper with the suicide note which had been submitted with the notebook had indeed been written by A. Nazaryan and not by someone else. However, as noted above, the request to be provided with the necessary material to seek the opinion of a forensic handwriting expert abroad was refused without any specific reasons and the matter could not be remedied after the applicants were able to take cognisance of the material in the file at the end of the investigation.

179. Moreover, the Court notes that the Regional Court did not allow any of the requests or arguments submitted by the applicants during the trial (see paragraphs 56, 66 and 68 above), and nor did the Court of Appeal (see paragraphs 71 and 72 above).

180. In these circumstances, the Court considers that the applicants' involvement in the procedure was not ensured to such an extent as was necessary to safeguard their legitimate interests (see *Tsintsabadze v. Georgia*, no. 35403/06, § 76, 15 February 2011, and *Aliyeva and Aliyev v. Azerbaijan*, no. 35587/08, § 70, 31 July 2014).

(δ) Independence of the investigation

181. Lastly, the applicants complained that the investigation into the death of A. Nazaryan had not been independent since the investigators of the Investigative Service of the Ministry of Defence were employed at the Ministry of Defence (see paragraph 105 above).

182. The Court reiterates that Article 2 does not require that the persons and bodies responsible for an investigation should enjoy absolute independence, but rather that they should be sufficiently independent of the persons and structures whose responsibility is likely to be engaged (see *Ramsahai and Others*, cited above, §§ 343-44).

183. In this regard, the Court observes that at the material time, the Investigative Service of the Ministry of Defence, although included in the structure of the Ministry of Defence, was a separate entity outside its staff (see paragraph 87 above). Consequently, the investigators of the Investigative Service of the Ministry of Defence were not part of the military structure based on the principles of hierarchical subordination. The mere fact that the Minister of Defence carried out the overall governance of the Investigative Service and approved its salary scales and the number of employees is not sufficient to call the statutory or institutional independence of its investigators into question.

184. In addition, the Court notes that there is nothing to suggest that the investigator in charge of the investigation into the circumstances of A. Nazaryan's death had any ties or working relationship with the servicemen of the military unit, including those implicated in the events in question (see, *mutatis mutandis*, *Mustafa Tunç and Fecire Tunç*, cited above, § 238). Neither is there anything to indicate that the conduct of the investigator showed tangible proof of a lack of impartiality by, for example, failing to carry out all the investigative measures which were required to complete the investigation (ibid., § 227, with further references).

185. Against this background, the Court considers that the criminal investigation conducted in the present case by the Sixth Garrison Investigative Service of the Ministry of Defence was sufficiently independent.

(ε) Conclusion

186. Having regard to its above findings (see paragraphs 170 and 180 above), the Court considers that the investigation conducted in this case was not sufficiently thorough and failed to secure the applicants' involvement in it to a sufficient degree to protect their interests and to enable them to exercise their rights efficiently.

187. It follows that there has been a violation of Article 2 of the Convention under its procedural limb.

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

188. The applicants complained that they had had no effective domestic remedies at their disposal in respect of the alleged breach of Article 2 of the Convention. They relied on Article 13 of the Convention, which reads as follows:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

189. The Government noted that the applicants had not complained in their applications that no compensation had been available for the alleged violations of Article 2 of the Convention.

190. The Court observes that the applicants initially complained in their application that the domestic authorities had failed to carry out an effective investigation into the circumstances of A. Nazaryan's death. In their observations submitted on 23 April 2018 in reply to those of the Government, they complained, with reference to the same provision, that there had been no legal possibility for them under Armenian law of claiming compensation for non-pecuniary damage.

191. The Court notes that the applicants' complaint, in so far as it reiterates their complaint that the domestic authorities had failed to carry out an effective investigation into A. Nazaryan's death, is linked to the ones examined above and must therefore likewise be declared admissible.

192. Having regard to the findings relating to the procedural limb of Article 2 of the Convention (see paragraphs 170, 180 and 186 above), the Court considers that it is not necessary to examine whether, in this case, there has also been a violation of Article 13 of the Convention (see *Muradyan*, cited above, § 161, and *Anahit Mkrtchyan v. Armenia*, no. 3673/11, § 105, 7 May 2020).

193. As regards the applicants' complaint with regard to the lack of legal grounds under Armenian law on which to claim compensation for non-pecuniary damage suffered as a result of the death of a family member, having regard to the applicants' initial submissions in their application (see paragraph 190 above), the Court considers that it amounts to raising a new and distinct complaint under Article 13 of the Convention (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 135, 20 March 2018). While there is nothing to prevent an applicant from raising a new complaint in the course of the proceedings before the Court, such a complaint must, like any other one, comply with the admissibility requirements (ibid.).

194. The Court notes that the domestic proceedings in the present case ended on 27 September 2013 and the relevant decision of the Court of Cassation was received on 3 October 2013 (see paragraph 75 above). However, as noted above, the applicants raised this complaint as late as in

their observations of 23 April 2018 (see paragraph 190 above), that is, outside the period of six months from the final domestic decision.

195. Even though no plea of inadmissibility concerning compliance with the six-month rule was made by the Government in their observations (see paragraph 189 above), the Court reiterates that it is not open to it to set aside the application of the six-month rule solely because the Government have not made a preliminary objection to that effect (see, for example, *Sabri Güneş v. Turkey* [GC], no. 27396/06, §§ 28-31, 29 June 2012).

196. It follows that the applicants' complaint under Article 13 of the Convention, in so far as it concerns their new argument that it was impossible to claim compensation for non-pecuniary damage, is inadmissible under Article 35 § 1 of the Convention for non-compliance with the six-month rule and must therefore be rejected pursuant to Article 35 § 4.

IV. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

197. Lastly, the first applicant also relied on Article 10 of the Convention in relation to her complaint concerning the investigator's refusal to provide her with the handwriting samples. Article 10 of the Convention provides:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

198. In so far as the first applicant can be understood to be complaining that she had a right to be informed of the truth regarding the circumstances that had led to the alleged violations of her Convention rights, the Court considers that this issue overlaps with the merits of the first applicant's complaints under Article 2 of the Convention which have already been addressed under its procedural limb (see paragraphs 171-180 above).

199. The present case does not raise any particular issue that should be analysed under Article 10 alone (see *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, §§ 264-65, ECHR 2012, and *Al Nashiri v. Poland*, no. 28761/11, §§ 580-82, 24 July 2014).

200. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

201. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

202. The applicants claimed an award in respect of non-pecuniary damage, leaving the determination of the amount of the award to the Court's discretion.

203. The Government requested the Court to take into consideration, *inter alia*, the nature of the violation found and the specific circumstances of the case when determining the amount to be awarded in respect of non-pecuniary damage.

204. In view of the nature of the violations found, the Court awards the applicants jointly 20,000 euros (EUR) in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

205. The applicants also claimed 7,946.20 pounds sterling in respect of the legal and administrative expenses incurred before the Court, and a further EUR 429.05 and 62,028 Armenian drams for translation costs. Relevant invoices were attached to the claim. The applicants requested that the payment of costs and expenses be made in pounds sterling into their representatives' bank account in the United Kingdom.

206. The Government argued that the claim was exorbitant. In their view the applicants had engaged an excessive number of lawyers and the translation costs had been unnecessary.

207. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 3,500 for the proceedings before the Court, plus any tax that may be chargeable to the applicants, to be paid in pounds sterling into their representatives' bank account in the United Kingdom.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the complaints under Articles 2 and 13 of the Convention concerning A. Nazaryan's death and the failure to carry out an effective investigation into his death admissible, and the remainder of the applications inadmissible;

3. *Holds* that there has been a violation of Article 2 of the Convention under its substantive limb;

4. *Holds* that there has been a violation of Article 2 of the Convention under its procedural limb;

5. *Holds* that there is no need to examine the complaint under Article 13 of the Convention about the alleged failure to carry out an effective investigation into A. Nazaryan's death;

6. *Holds*
   (a) that the respondent State is to pay the applicants jointly, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:
      (i) EUR 20,000 (twenty thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
      (ii) EUR 3,500 (three thousand five hundred euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses, to be converted into pounds sterling at the rate applicable at the date of settlement and to be paid into the applicants' representatives' bank account in the United Kingdom;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

7. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 8 November 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Ilse Freiwirth	Gabriele Kucsko-Stadlmayer
Deputy Registrar	President